

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

SEAN MURTAUGH

v.

ROBERT S. GOGGIN, III, ESQUIRE,
GOGGIN & DUCKWORTH, P.C.,
FORCENO GOGGIN & KELLER, P.C.,
KELLER & GOGGIN, P.C., JORDAN
LITIGATION FUNDING, LLC AND
NORRIS JORDAN

NO. 2:24-CV-00026

ORDER

AND NOW, this day of , 2024, upon consideration of the Motion to Dismiss of Defendants Robert S. Goggin, III, Esquire, Goggin & Duckworth, P.C., Forceno Goggin & Keller, P.C. and Keller and Goggin, P.C., and Plaintiff's Response, and assuming an Amended Complaint filed by February 29, 2023, consistent with Fed. R. Civ. P. 15(a)(1)(B), it is hereby **ORDERED** that the Motion to Dismiss is **DENIED** as **MOOT**.

BY THE COURT:

J.

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**PLAINTIFF'S RESPONSE TO MOTION TO DISMISS
OF DEFENDANTS ROBERT S. GOGGIN, III, ESQUIRE, GOGGIN &
DUCKWORTH, P.C., FORCENO GOGGIN & KELLER, P.C. AND
KELLER AND GOGGIN, P.C.**

Plaintiff Sean Murtaugh responds to Defendants' Federal Rule of Civil Procedure 12(b) Motion to Dismiss (Doc. 23) by stating the following: Plaintiff will avail himself of the opportunity to amend his Complaint, as a matter of right, pursuant to Federal Rule of Civil Procedure 15(a)(1)(B), rather than submitting a brief in opposition to the arguments in Defendants' Motion to Dismiss.

Rule 15(a)(1)(B) authorizes Plaintiff to amend his or her Complaint within 21 days of the filing of a Rule 12(b) Motion to Dismiss. Fed.R.Civ.P. 15(a)(1)(B). ¹ See, e.g., *Smith v. Unilife Corp.*, No. 13-5101, 2014 WL 443114, at *1-*2 (E.D. Pa. Feb. 4, 2014) (Baylson, J.); *Estate of James C. Rennick, Sr. v. Universal Credit Services, LLC*, No. 18-3881, 2019 WL 4007766, at *2 (E.D. Pa. Aug. 22, 2019) (Baylson, J.). Once Plaintiff files his Amended Complaint, Defendants' current Rule 12(b) Motion may be

¹ Pursuant to Eastern District Local Rule 7.1(c), the time within which to submit a brief in opposition to a Motion to Dismiss is fourteen (14) days, in contrast to the twenty-one (21) days permitted under Rule 15(a)(1)(B) for amendment in response to a Motion to Dismiss. This difference in response time makes the submission of this "Response" necessary as a cautionary move, in order to avoid placing the Court in position to grant Defendants' Motion to Dismiss for lack of filing a timely opposition brief.

dismissed as moot. *See New Rock Asset Partners, L.P. v. Preferred Entity Advancements, Inc.*, 101 F.3d 1492, 1504 (3d Cir. 1996).

The pending Motion to Dismiss was filed on February 8, 2024 (Doc. 23). In compliance with Rule 15(a)(1)(B), Plaintiff will file his Amended Complaint not later than on February 29, 2024. By choosing to file an Amended Complaint, Plaintiff does not waive his right to oppose any Rule 12(b) Motion to Dismiss that may be filed by Defendants in the future in response to Plaintiff's Amended Complaint, whether on the same or different grounds as the current Motion.

FREIWALD LAW, P.C.

BY: /s/ Zachary S. Feinberg
AARON J. FREIWALD, ESQUIRE
ZACHARY S. FEINBERG, ESQUIRE
Counsel for Plaintiff

Date: February 21, 2024

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NO. 2:24-CV-00026

ROBERT S. GOGGIN, III, ESQUIRE,
GOGGIN & DUCKWORTH, P.C.,
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CERTIFICATE OF SERVICE

I, Zachary S. Feinberg, hereby certify that a copy of Plaintiff's Response to Motion to Dismiss was served by the Court's electronic filing system upon the following:

William A. Harvey, Esquire
Megan M. O'Neill, Esquire
Klehr Harrison
1835 Market Street, Suite 1400
Philadelphia, PA 19103

Josh J.T. Byrne, Esquire
Marshall Dennehey
2000 Market Street, Suite 2300
Philadelphia, PA 19103

/s/ Zachary S. Feinberg

ZACHARY S. FEINBERG, ESQUIRE

Date: February 21, 2024